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Attorney for Defendant Ward Greene

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

TIMOTHY ROTE,

Plaintiff,

v.

OREGON JUDICIAL DEPARTMENT,
OREGON STATE BAR
PROFESSIONAL LIABILITY FUND,
THE HON. ANN LININGER, THE
HON. ALISON EMERSON, THE HON.
JOSEPHINE MOONEY, THE HON.
JACQUELINE KAMINS, THE HON.
KATHIE STEELE, CAROL BERNICK
and MEGAN LIVERMORE (in their
official capacities as CEO of the
OSBPLF), MICHAEL WISE, JEFFREY
EDELSON, DESCHUTES COUNTY
SHERIFF'S DEPARTMENT,
MATTHEW YIUM, NATHAN
STEELE, WARD GREENE,
ANTHONY ALBERTAZZI and JOHN
DOES (1-5), et al.

Defendants.

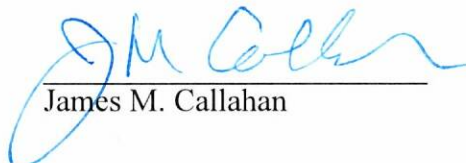
Case No.: 3:22-cv-00985-SI

**DECLARATION OF JAMES M.
CALLAHAN IN SUPPORT OF
DEFENDANT WARD GREENE'S
MOTION FOR SUMMARY JUDGMENT**

I, James M. Callahan, hereby declare that the attached Exhibit A is a true and correct copy of the original Mutual Release and Settlement Agreement.

I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

DATED: August 8, 2022



James M. Callahan

MUTUAL RELEASE AND SETTLEMENT AGREEMENT**1. Introduction & Recitals.**

This *Mutual Release and Settlement Agreement* ("Agreement") is hereby entered into between TIMOTHY and TANYA ROTE (collectively "Claimants") and Williams, Kastner & Gibbs, PLLC ("Williams Kastner"), and Taryn Basauri (collectively "Defendants"). Claimants and Defendants are collectively "the Parties" and each a "Party" to this Agreement. This Agreement shall take effect on the date of the last-dated signature on a fully executed copy of this Agreement ("Effective Date").

Claimants brought third and fourth party claims against Williams Kastner and Taryn Basauri in Clackamas County Circuit Court Case No. 19CV01547 ("Lawsuit"). Those claims were dismissed and Defendants were awarded costs and attorney fees. The judgment of dismissal was appealed and affirmed by the Oregon Court of Appeals without opinion. The judgment for attorney fees was appealed and is still pending in the Oregon Court of Appeals.

2. Mutual Release of All Claims.

For and in consideration of the Mutual Releases of the Parties, as contemplated hereby, the other obligations contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which hereby is acknowledged by the Parties, the Parties hereby mutually release, covenant not to sue, and forever discharge each other and each of their respective businesses, entities owned or controlled by a Party, current and former representatives, agents, employees, general partners, limited partners, heirs, successors, and assigns, from any and all Claims (as that term is defined below) arising out of or related to any act or omission of a Party occurring prior to execution of this Agreement.

For purposes of this Agreement, "Claims" means any and all obligations, injuries, rights, damages, demands, tenders, costs, losses, liabilities, debts, indebtedness, actions, causes of action or suits of any kind or nature whatsoever (whether based in contract, arising in tort, or arising under or based on any statutes, ordinances, codes or regulation, or under any other theory of right, remedy or recovery), whether past, present or future, asserted or unasserted, known or unknown, anticipated or unanticipated, whether on account of damage, including, but not limited to, physical injury, emotional distress injury, loss of services, lost income, financial loss, attorney fees or other damages.

For purposes of this Agreement, the Claims released pursuant to this Section 2 shall be referred to hereafter as the "Released Claims."

3. Abandonment of Released Claims.

The Parties, by signing this Agreement, acknowledge abandonment of all the Released Claims, including, but not limited to, the Released Claims alleged in the Lawsuit referenced above and the awards of costs and attorney fees related to the Lawsuit referenced above.

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The Parties assume the risk of any mistake of fact and of any facts proven to be other than or different from the facts now known to the Parties or believed by the Parties to exist. The Parties acknowledge that it is the purpose of this Agreement to settle, fully and finally, the Released Claims, without regard to who may or may not be correct in any understanding of fact or law related to any Released Claims.

4. Covenant Not to Sue.

The Parties hereby and in good faith mutually "covenant not to sue" each other, within the meaning of ORS 31.815(1), such that: (a) if any Party is or is claimed to be liable in tort for the same injury to person or property or the same wrongful death as a tortfeasor who is not a Party to this Agreement, then the Party shall be discharged from all liability for contribution to that tortfeasor; and (b) each Party shall notify all other persons against whom that Party makes claims of all of the terms of this Agreement.

5. Dismissal of Lawsuits and Appeals / Satisfaction of Judgments.

By executing this Agreement, the Parties consent to the execution and filing of the dismissal documents attached as Exhibit A, or a substantially similar form agreeable to all the Parties, that is intended to result in the dismissal of all claims including the appeals that are pending in the Oregon Appellate Courts (A173748 and A174364).

Within five days after entry of the dismissal intended by this Section 5, Defendants will file a complete satisfaction of judgment with respect to the award of attorney fees and costs using the satisfaction of judgment form attached as Exhibit B, or substantially similar form agreeable to the Parties.

The Parties represent that the only lawsuit between the Parties is Clackamas County Circuit Court Case No. 19CV01547. The Parties further represent that the judgment for attorney's fees in favor of Defendants has not been registered in any other county.

6. Knowing Release.

Each Party hereby warrants and represents that they were afforded the opportunity to have legal counsel review and advise them on the terms of this Agreement. Each Party warrants and represents that they have relied upon their own independent judgment, belief, and knowledge in entering into this Agreement and that they have obtained whatever advice and consultation they deemed necessary in this matter and have not been influenced to any extent whatsoever in entering into this Agreement by any representation or statement made by any other Party to this Agreement or by any person representing any other Party, other than as expressly stated herein. Each Party enters into this Agreement voluntarily and free from any physical, mental, or emotional condition that might affect their ability to fully understand and agree to any of the terms stated in this Agreement.

This Agreement has been negotiated by the Parties with the assistance or the opportunity to retain the assistance of an attorney. The language in this Agreement is the result of

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negotiation and compromise. Each Party has had the opportunity to seek the advice of attorneys and to review and approve the language herein. Each Party agrees that if any ambiguity is found to exist in this Agreement, no Party shall be deemed to have drafted the Agreement for purposes of interpreting any term, promise, or other aspect of this Agreement. The interpretation and construction of any ambiguity in this Agreement shall not be presumed to be in favor of or against any Party.

This Agreement contains the final and entire Agreement between the Parties regarding the subject matter and terms addressed herein and supersedes all prior negotiations, agreements, or representations with respect to the subject matter and terms of this Agreement.

7. Settlement Not an Admission of Liability.

The Parties intend the settlement evidenced by this Agreement to be a compromise of disputed claims and not an admission of liability on behalf of any Party.

8. Counterparts and Electronic Signature.

This Agreement may be executed by electronic signature, in counterparts, including counterparts received by facsimile or electronic transmission, such that each counterpart constitutes an original and a complete set of all signatures on this Agreement shall constitute a fully executed copy of this Agreement.

9. Severability and Jurisdiction.

The provisions of this Agreement are severable, and if any part of it is found to be unenforceable the other provisions shall remain fully valid and enforceable to the greatest extent allowed by applicable law, so as to give effect to the intentions of the Parties to the greatest extent possible. All sections of this Agreement are to be construed, interpreted, governed, and applied according to the laws of the State of Oregon.

DocuSigned by:

 83540E601720A74
 Timothy Rote

0/23/2021


Date

DocuSigned by:

 180806A7700405...
 Tanya Rote

0/23/2021

Date


 Williams, Kastner & Gibbs, PLLC

06/29/2021

Date

Taryn Basauri

Date